

To: Dalcher, Debra[dalcher.debra@epa.gov]
From: Zhang Liping
Sent: Fri 1/26/2018 9:47:24 PM
Subject: U.S. EPA reverses policy on 'major sources' of pollution

Hello Debra,
The OIAI is withdrawn and it is effective immediately.

But EPA anticipates that it will soon publish a Federal Register notice to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute as discussed in this memorandum.

So in our ongoing title V permit renew, should we adopt this reversed policy right away or we need to wait till final regulatory text changed in FR and still submit the renew application as OIAI? then come back to revise our newly renewed permit for applicable regulations after it is on FR?

Thank you-

Liping Zhang, P. E.
Manager, Global EHS Permitting & Regulatory Support
Deere & Company World Headquarters
One John Deere Place
Moline, Illinois 61265 USA
Phone: (309) 748-3241
Cell: Ex. 6 - Personal Privacy

To: Torres, Elineth[Torres.Elineth@epa.gov]; Dalcher, Debra[dalcher.debra@epa.gov]
Cc: Linda S. Kee[lkee@green-envi.com]; Linda Maher[lmaher@green-envi.com]; Michelle Olive[molive@green-envi.com]
From: Janet L. Greenberg
Sent: Fri 1/26/2018 3:58:07 PM
Subject: area source under 63 MMMM

We are very interested in the memo issued yesterday:

<https://www.epa.gov/newsreleases/reducing-regulatory-burdens-epa-withdraws-once-always-policy-major-sources-under-clean>

regarding the reclassification of Major Sources as Area Sources under the MACT standards. We wish to send a comment to you, to ensure that the notice published by EPA will cover a specific situation encountered by one of our clients.

40 CFR 63 Subpart MMMM (National Emission Standard for Hazardous Air Pollutants: Surface Coating of Miscellaneous Metal Parts and Products) applies only to operations located at major sources of hazardous air pollutants (HAP) (10 tons per year of any one HAP or 25 tons per year of any combination of HAP). Our client does not currently have the potential to emit (PTE) these quantities of HAP, nor did the site have this PTE prior to the effective date of this regulation. However, they did not have an enforceable PTE registration in place prior to the effective date of the regulation.

The coating booth began operations in 2004, after January 2, 2004, the promulgation date of the regulation. It has never been a major source, thus, the site could not have become affected by this regulation until it missed the APD-CERT deadline to enforceably certify its PTE on January 2, 2007, which is the date the regulation became effective for existing sources. The old EPA guidance contained this requirement:

Today's guidance clarifies that facilities may switch to area source status at any time until the "first compliance date" of the standard.

However, the site did not submit an enforceable certification of these area source potential emission rates on form APD-CERT to TCEQ until March 19, 2007, after the effective compliance date of the regulation of January 2, 2007. Because of the "once in, always in" policy, the site has done their best to comply with this regulation.

Compliance with 63 MMMM has been a significant burden for this small site, which ultimately has nearly discontinued certain of their coating operations, partially due to the difficulty in obtaining acceptable, affordable paints in the small quantities needed for their operations.

Distributors were not able to offer cost-effective low-HAP solutions to them that still met the needs and warranty requirements of their customers.

But will our client now be able to cease sending semi-annual reports under 63 MMTM, and also no longer be subject to the requirements of this regulation, since they have long since registered their area source status? Their area source PTE registration just happened to be 2 months after the "first compliance date" of the regulation.

We would appreciate your help and advice in bringing this issue to a close for this small facility.

Thanks,

Janet L. Greenberg, P.E.

GREEN Environmental Consulting, Inc.

10322 Ivyridge Rd.

Houston, TX 77043

Phone 713-932-8942

JGreen@green-envi.com

www.green-envi.com

To: Jared Rothstein[jrothsteinj@socma.com]
From: Dalcher, Debra
Sent: Tue 1/30/2018 7:33:24 PM
Subject: RE: EPA "Once In, Always In" HAP Policy

Jared,

The list of MACT standards that have been delegated to each state can be found in 63.99.

Thank you, Debra

From: Jared Rothstein [mailto:rothsteinj@socma.com]
Sent: Tuesday, January 30, 2018 1:48 PM
To: Torres, Elineth <Torres.Elineth@epa.gov>; Dalcher, Debra <dalcher.debra@epa.gov>
Subject: EPA "Once In, Always In" HAP Policy

Hello Debra and Elineth,

I recently reviewed the U.S. EPA [guidance memorandum](#) announcing its withdrawal of its “once in always in” policy for the classification of major sources of hazardous air pollutants under section 112 of the Clean Air Act, and had a couple questions regarding implementation. Do you know which states have the delegated authority to ratify this change in policy? My understanding is that it would only apply to the states that have been delegated by EPA to administer the 112 program. I assume EPA’s position is that the states with delegated authority are obliged to follow the new policy if they want to maintain their delegation, because the new memo says clearly that the old policy is not authorized by the statute? Any information you might have regarding state adoption of the policy would be very helpful.

Thank you!

Jared

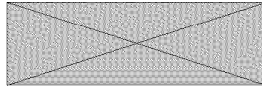
Jared A. Rothstein | *Senior Manager, Regulatory Affairs*

Society of Chemical Manufacturers & Affiliates (SOCMA)

1400 Crystal Drive | Suite 630 | Arlington, VA 22202

(571) 348-5122 | rothsteinj@socma.com

To: washington_update@lists.4cleanair.org[washington_update@lists.4cleanair.org];
epa@lists.4cleanair.org[epa@lists.4cleanair.org]; mjo@lists.4cleanair.org[mjo@lists.4cleanair.org];
members@lists.4cleanair.org[members@lists.4cleanair.org]
From: epa@lists.4cleanair.org
Sent: Fri 1/26/2018 10:40:42 PM
Subject: The Washington Update



Howdy Friends,

It's been a week of things done quickly, starting with a quick government shutdown, and then a quick trip to see 400 of our closest clean air friends at the National Air Quality Conference in Austin Texas. We took our time rounding up this week's clean air news for you though! In this week's *Washington Update*:

- EPA's withdrawal of the Once-In-Always-In policy,
- NACAA's new "4yi" factsheet in air quality sensors,
- Congress's approval of another Continuing Resolution to end the government shutdown,
- The National Air Quality Conference in Austin,
- EPA's request that the court pause litigation as the agency "revisits" the Regional Haze Rule,
- EPA's request that the court delay farm reporting requirements and
- States' requests for leave to intervene in litigation seeking expansion of the Ozone Transport Region.

Also, take a look at the calendar for next week – it includes NACAA's Winter Board of Directors and Committee Chairs' Meeting.

For those of y'all we met in Texas, it's great to know you, and I'm so glad we're friends!

Download this week's *Washington Update* here:

<http://www.4cleanair.org/sites/default/files/Documents/012618wklyupdate.pdf>

Have a nice (slow!) weekend.

My best, Miles

Miles Keogh

Executive Director

National Association of Clean Air Agencies

444 North Capitol Street, NW, Suite 307

Washington, DC 20001

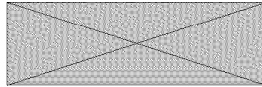
Phone: (202) 624-7864

mkeogh@4cleanair.org

www.4cleanair.org

@WeAre4CleanAir

To: washington_update@lists.4cleanair.org[washington_update@lists.4cleanair.org];
epa@lists.4cleanair.org[epa@lists.4cleanair.org]; mjo@lists.4cleanair.org[mjo@lists.4cleanair.org];
members@lists.4cleanair.org[members@lists.4cleanair.org]
From: epa@lists.4cleanair.org
Sent: Fri 1/12/2018 9:41:54 PM
Subject: The Washington Update



Friends, in the course of the week here in DC we've gone from epic "bomb cyclone" cold (or as Montana calls it, "January") to short-sleeve-shirt weather (or as Pima County AZ calls it, "January"). We've had a rollercoaster week for clean air news too, including:

- Senators' recommendation that EPA rescind the "Once In, Always In" policy,
- FERC's rejection of DOE's coal and nuclear resilience payment proposal,
- SCOTUS's denial of petitions to review two CAA cases,
- Washington Governor Inslee's proposed statewide carbon tax,
- EPA's annual reports on light-duty vehicle fuel economy and GHG emissions,
- A state-local coalition's call for Administrator Pruitt to withdraw the proposed CPP repeal and recuse himself,
- NOAA's findings that 2017 was the nation's most expensive weather and climate disaster year and third warmest year on record,
- EPA's status report to the court on its review of the 2015 ozone NAAQS,
- The re-nomination of administrative and judicial appointments not confirmed in 2017 including nominees for two key environmental posts,
- EPA's adjustment of monetary civil penalties,
- Extension of the comment period for the CPP repeal proposal and announcement of additional public hearing dates,
- Publication of the third round of SO2 area designations, and
- Launch of a new EPA website on deregulation activities.

Don't forget to take a look at what's on tap for next week!

Download it here:

<http://www.4cleanair.org/sites/default/files/Documents/011218wklyupdate.pdf>

Have a great weekend! (FYI, the NACAA offices will be closed Monday to observe Martin Luther King, Jr. Day.)

My best, Miles

Miles Keogh

Executive Director

National Association of Clean Air Agencies

444 North Capitol Street, NW, Suite 307

Washington, DC 20001

Phone: (202) 624-7864

mkeogh@4cleanair.org

www.4cleanair.org

@WeAre4CleanAir

To: Lamason, Bill[Lamason.Bill@epa.gov]
From: Janet L. Greenberg
Sent: Fri 1/26/2018 4:07:32 PM
Subject: Fw: area source under 63 MMMM

Mr. Lamason,

We are very interested in the memo issued yesterday:

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regarding the reclassification of Major Sources as Area Sources under the MACT standards. We wish to send a comment to you, to ensure that the notice published by EPA will cover a specific situation encountered by one of our clients.

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Thanks,

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www.green-envi.com

To: Lassiter, Penny[Lassiter.Penny@epa.gov]; Shine, Brenda[Shine.Brenda@epa.gov]
Cc: Karin C. Ritter[Ritterk@api.org]
From: David Friedman
Sent: Wed 1/10/2018 8:52:00 PM
Subject: Comparison of Official CFR and e-CFR Postings Regarding MACT Cc/UUU and NSPS Ja Postings
AFPM -- RSR Differences between Rule Publications 010818.docx

Penny and Brenda,

Continuing the work AFPM initiated last month comparing the *Federal Register* notices against official CFR and e-CFR postings regarding the amendments made to MACT CC/UUU and NSPS J/Ja provided to you at our December 5 meeting, AFPM has completed a comparison of the “redline mark-ups” of the regulations you had provided to the Office of the Federal Register against the official CFRs, and have identified several revisions to the citation that were not incorporated properly. These issues have been noted in Table 2 in Section 3 of the attached document beginning on page 10 that I have copied into this email. It is important that these issues are addressed through the proposed Technical Correction Rule (TCR), since they are significant in being able to comply with the regulations. Given the timing of issuing the proposed TCR, I would appreciate your response on incorporating these revisions, or advise if you would like to discuss them further in order to form your response.

Thanks,

David N. Friedman

Vice President

Regulatory Affairs

American

Fuel & Petrochemical

Manufacturers

1667 K Street NW

Suite 700

Washington, DC 20006

202.457.0480 office

202.602 6604 direct

202.457.0486 fax

dfriedman@afpm.org

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To: Meyer, Elizabeth[Elizabeth.Meyer@invista.com]
Cc: Keinath, William W.[William.W.Keinath@invista.com]; Lassiter, Penny[Lassiter.Penny@epa.gov]
From: Lavoie, Tegan
Sent: Tue 9/26/2017 12:27:35 PM
Subject: RE: VM response

Good morning Elizabeth,

Thank you for your response. In light of the new information you provided, we have decided it best to not visit the INVISTA Wilmington facility at this time.

Thank you again for your time and have a great day.

Best regards,
Tegan

Tegan N. Lavoie, PhD | Physical Scientist

OAR/OAQPS/SPPD/Refining and Chemicals Group

U.S. Environmental Protection Agency

109 TW Alexander Drive, Office: E142G, MC:E143-01

Research Triangle Park, NC 27711

Phone: (919) 541-5110 | Email: lavoie.tegan@epa.gov

From: Meyer, Elizabeth [mailto:Elizabeth.Meyer@invista.com]
Sent: Friday, September 22, 2017 2:58 PM
To: Lavoie, Tegan <lavoie.tegan@epa.gov>
Cc: Keinath, William W. <William.W.Keinath@invista.com>; Lassiter, Penny <Lassiter.Penny@epa.gov>

Subject: RE: VM response

Ms. Tegan,

We have an outage scheduled October 16th- 19th. Wednesday Oct 26th should work barring any issues with outage (or hurricanes). I'd like to give you a heads up that we downsized considerably over the last few years. We are only in the MACT rules because of the "once in, always in" requirement. Our current potential HAP emissions are well below Major Source thresholds. Our applicability for the two MACT standards you are reviewing are as follows:

- For OLD MACT- we have one unloading rack. It is a group 2, unloading Phthalic Anhydride (PA) with a vapor pressure of 0.1 PSI at storage/unloading temperatures. The use of PA (and therefore the unloading from the tank truck to process) was implemented prior to the site becoming an area source of HAP on January 1, 2014. Since PA was a HAP that was unloaded prior to the site becoming an area source- it is a legacy requirement.
- For MON MACT- Our Group 1 Wastewater is shipped offsite to a TSDF. We vent off gas (group 1 vent) to a VOC header to the flare from our reactors. Other group 2 wastewater streams go to the onsite enhanced biological waste treatment plant. Again, this MACT is a legacy requirement as the MON MACT compliance date for existing sources was May 10, 2008, when the facility was a major source of HAP.

Additionally, you may be familiar that our Title V permit is in draft and towards the end of the comment period. This permit is expected to be issued Oct 1 and will reflect the current state of operation.

If you would still like to visit, let me know and I will make sure to have a conference room reserved. Please send me the names of all individuals arriving at least 24 hours before so I can pass along to security. All persons entering the facility are required to have steel toes, long sleeves, and long pants. If you want to walk off the roadway and into the process areas, you will need Flame Retardant clothing that meets NFPA 70E requirements. If you do not own any, you can usually find disposable FR at Grainger. Any equipment including phones and watches must be intrinsically safe. The site can provide hard hats, safety glasses, and ear plugs.

From: Lavoie, Tegan [<mailto:lavoie.tegan@epa.gov>]

Sent: Tuesday, September 19, 2017 1:53 PM

To: Meyer, Elizabeth <Elizabeth.Meyer@invista.com>

Cc: Keinath, William W. <William.W.Keinath@invista.com>; Lassiter, Penny
<Lassiter.Penny@epa.gov>
Subject: RE: VM response

Sent by an external sender

Hi Elizabeth,

Thank you for your response. To answer your questions, I work in the Refining and Chemicals Group, led by Penny Lassiter (CC'd here), within the Office of Air Quality Planning and Standards at the EPA's campus in Research Triangle Park, NC. We are currently in the early stages of reviewing several rules, including the Miscellaneous Organic NESHAP (MON) and Organic Liquids Distribution (OLD) NESHAP. We selected INVISTA Wilmington for a site visit because the Title V Permit indicates it is both MON and OLD applicable, and also because it is within driving distance from the Research Triangle Park campus. I'd like to reiterate that we are not from enforcement, and this visit is purely informational as we have several new group members that are interested in learning more about the processes we will be reviewing.

If possible, we would like to arrange the visit for Thursday October 26th at 10:00 AM, however, we can schedule for any day between October 16th and 31st. In addition to myself, we expect to bring 4-5 people from our group. In the past, the facilities we visited have started by explaining the various process equipment on site and the controls in place, and have walked us through plant maps and process diagrams, with particular emphasis on all MON and OLD processes. After this informational briefing, we'd then like to tour the facility to show some of our newer employees the scope of the equipment. If you have a wastewater system with process water that leaves the production area, we'd also be interested in seeing that, and understanding where the waste streams go. Generally speaking, these visits usually last about 3 hours.

After we arrange a date, you can expect to receive a letter in the mail which describes our intention to visit the facility and the details of the visit. Please let me know the mailing address that this letter should be sent to. Additionally, please let me know if there is any safety equipment we should bring, or if the facility provides safety equipment to visitors.

If you have any additional questions, please let me know. Thank you for your time and have a great day.

Best regards,

Tegan

Tegan N. Lavoie, PhD | Physical Scientist

OAR/OAQPS/SPPD/Refining and Chemicals Group

U.S. Environmental Protection Agency

109 TW Alexander Drive, Office: E142G, MC:E143-01

Research Triangle Park, NC 27711

Phone: (919) 541-5110 | Email: lavoie.tegan@epa.gov

From: Meyer, Elizabeth [<mailto:Elizabeth.Meyer@invista.com>]

Sent: Tuesday, September 19, 2017 1:05 PM

To: Lavoie, Tegan <lavoie.tegan@epa.gov>

Cc: Keinath, William W. <William.W.Keinath@invista.com>

Subject: VM response

Tegan,

I received your voicemail requesting a site visit to learn about our operations and how the rules you are reviewing could impact the INVISTA Wilmington facility. To ensure that we are meeting EPA's goals for the visit, we'd like some additional information.

- What EPA department do you work in?
- What rules are you working on/reviewing?
- Why was the INVISTA Wilmington facility selected?

This information will help me understand what resources would be needed and the amount of time needed for the visit if a visit is necessary.

Thank you, in advance, for your response.

Elizabeth Meyer, CHMM

EHS Leader

910.341.5515 (office)



To: Lavoie, Tegan[lavoie.tegan@epa.gov]
Cc: Keinath, William W.[William.W.Keinath@invista.com]; Lassiter, Penny[Lassiter.Penny@epa.gov]
From: Meyer, Elizabeth
Sent: Fri 9/22/2017 6:57:44 PM
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Elizabeth Meyer, CHMM

EHS Leader

910.341.5515 (office)



To: Letendre, Daisy[letendre.daisy@epa.gov]
From: EPA Press Office
Sent: Thur 1/25/2018 9:54:51 PM
Subject: Reducing Regulatory Burdens: EPA withdraws “once-in always-in” policy for major sources under Clean Air Act

EPA issued a guidance memorandum withdrawing the “once-in always-in” policy for the classification of major sources of hazardous air pollutants under section 112 of the Clean Air Act.

Reducing Regulatory Burdens: EPA withdraws “once-in always-in” policy for major sources under Clean Air Act

WASHINGTON (January 25, 2018) – Today, the U.S. Environmental Protection Agency (EPA) issued a guidance memorandum withdrawing the “once-in always-in” policy for the classification of major sources of hazardous air pollutants under section 112 of the Clean Air Act. With the new guidance, sources of hazardous air pollutants previously classified as “major sources” may be reclassified as “area” sources when the facility limits its potential to emit below major source thresholds.

“This guidance is based on a plain language reading of the statute that is in line with EPA’s guidance for other provisions of the Clean Air Act,” **said Bill Wehrum, assistant administrator of EPA’s Office of Air and Radiation.** “It will reduce regulatory burden for industries and the states, while continuing to ensure stringent and effective controls on hazardous air pollutants.”

Today’s memo is another step by which EPA is reducing unnecessary regulatory burdens that deterred innovative efforts to improve the environment. The “once in always in” policy has been a longstanding disincentive for sources to implement voluntary pollution abatement and prevention efforts, or to pursue technological innovations that would reduce hazardous air pollution emissions. States, state organizations and industries have frequently requested rescission of this policy, which was one of the most commonly cited requests in response to President Trump’s Executive Order 13777. Today’s EPA action is an important step in furtherance of the president’s regulatory reform agenda while providing a meaningful incentive for investment in HAP reduction activities and technologies.

The Clean Air Act defines a “major source” as a one that emits, or has the potential to emit, 10 tons per year of any hazardous air pollutant, or 25 tons per year or more of any combination of hazardous air pollutants. Sources with emissions below this threshold are classified as “area sources.” Different control standards apply to the source depending on whether or not it is classified as a “major source” or an “area source.”

In a 1995 memo, EPA established a “once-in always-in” policy that determined that any facility subject to major source standards would always remain subject to those standards, even if production processes changed or controls were implemented that eliminated or permanently reduced that facility’s potential to emit hazardous air pollutants.

Today’s memo finds that EPA had no statutory authority under the Clean Air Act to place a time limit on when a facility may be determined to be an area source, and that a plain language reading of the Act must allow facilities to be reclassified as area sources once their potential to emit hazardous air pollutants falls below the levels that define major sources.

EPA anticipates that it will soon publish a Federal Register notice to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute as discussed in this memorandum.

More information is available online at <https://www.epa.gov/stationary-sources-air-pollution/national-emission-standards-hazardous-air-pollutants-neshap-9>

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